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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/692,404      | 10/22/2003  | Jeffrey D. Earls     | 7675 US             | 8505             |

7590 03/09/2006

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| EXAMINER |
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NGUYEN, THUAN T

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2685

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/692,404

Applicant(s)

EARLS ET AL.

Examiner

THUAN T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 6-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: --of the type—is subject to a 112-2<sup>nd</sup> rejection because of the vague and indefinite claiming languages. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: --in any of claims 1-6—is not a common practice in the US patent procedures. Appropriate correction is required.

### *Claim Rejections - 35 USC 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

3. Claims 1-5 and 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller et al. (U.S. Patent No. 6,834,073 B1).

Regarding claim 1, Miller discloses a tracking generator for an RF measurement instrument having a controller and a receiver (Fig. 3A (1)) comprising means for generating a baseband signal under control of the controller (refer to Fig. 1 and col. 3/lines 37-51 for a conventional receiver as a baseband signal is generated); means for modulating the baseband signal with a modulation oscillator frequency to produce a modulation signal (modulated

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oscillation signal at 114 is mixing with incoming RF signals); and means for mixing the modulation signal with a local oscillator frequency from the receiver to produce a test signal having an output frequency that matches a measurement frequency for the receiver (col. 9/lines 34-63 for the synchronization process at the waveform correlator 5 with a plurality of pulse sequence as a test signal for the determination the receiver is synchronized with the incoming signal).

As for claim 2, this feature is met as Miller teaches to provide a frequency offset for the output frequency (col. 12/lines 11-27).

As for claim 3, this feature is met as Miller teaches the frequency offset as noted above is for a USB receiver including baseband processing (refer to col. 22/see claim 3 and 9).

As for claim 4, this feature is inherently suggested by Miller as Miller teaches the A/D converter is having sampling rates using the Nyquist rate.

As for claim 5, Miller teaches this feature as for the conventional receiver, an AGC includes LO and LO is being adjusted (col. 2/line 58-col. 3/line 16) prior to input into the mixing means (Fig. 1/item 112 for the mixer).

As for claims 14-15, these claims are rejected for the reasons given in the scope of claims 1-2 as disclosed above.

***Allowable Subject Matter***

4. Claims 6-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

For claim 6, Miller does not disclose a tracking generator as cited in claim 1 & 2 AND further including “wherein the offsetting means comprises means for controlling a modulation oscillator frequency for the modulating means to produce an offset in the modulation signal.”

Other claims are allowable based on the dependence on claim 6.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Miller and Radin (in PTO 892 attached) disclose systems related to tracking generator and methods.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to the New Central Fax number:**

(571) 273-8300, (for Technology Center 2600 only)

Hand deliveries must be made to Customer Service Window,

Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate Fridays off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tony T. Nguyen', with a stylized flourish at the end.

**TONY T. NGUYEN  
PATENT EXAMINER**

Tony T. Nguyen  
Art Unit 2685  
March 02, 2006